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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,991	04/16/2004	Sebastian Janssen	064385-5012US	8735

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EXAMINER	
WONG, ERIC TAK WAI	

ART UNIT	PAPER NUMBER
3693	

MAIL DATE	DELIVERY MODE
03/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/825,991	JANSSEN, SEBASTIAN	
	Examiner	Art Unit	
	ERIC WONG	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 April 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/06/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-22 are pending. The following is a non-final first Office action on claims 1-22.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-6 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, independent claim 1 does not establish a preamble since it lacks a transitional phrase such as "comprising" or "consisting".

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-6 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A "stable value investment product" does not fall within a statutory category as required by 35 U.S.C. 101 since it is not a process, machine, manufacture, or composition of matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Examiner's note: Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual

claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

4. Claims 1-5, 7-11, 13-17, and 19-21 rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant admission of prior art in view of Scheel ("The Impropriety of Benefits-Premiums Ratios in Life Insurance Price Disclosure", *The Journal of Risk and Insurance,* Vol. 41, No. 2. (Jun., 1974), pp. 356-360).

5. Regarding claims 1, 7, 13, and 19, Applicant admission of prior art teaches a stable value investment product which accounts for an assessment by applying said assessment to both market value and stable value (see tables 1-3 in background). Applicant admission of prior art does not teach asymmetrically accounting for the assessment by adjusting the assessment applied to the stable value by a ratio of said stable value to said market value prior to applying assessments to either the stable value or market value. Scheel teaches the general mathematical property of ratios as follows (pages 356-357):

> The problem with the ratio lies not so much in its parameters, but rather in a general mathematical property of ratios that makes them unreliable either as tools for life insurance price disclosure or for policy comparisons. Consider the fraction $\frac{N}{D} = k$. If a constant, c, is added to both the numerator and denominator of this fraction, the value will change by:
>
> $$\Delta = \frac{c(1 - k)}{D + c} \qquad (1)$$

> When the numerator is less than the denominator and both are greater than zero (the typical case for A′ ratios), the new ratio will be greater than the original one when $c > 0$, i.e., $\triangle > 0$. The importance of this trivial observation is that this result may be used by insurers to manipulate the value of their A′ indexes. The result is also the reason why ratios should not be used to rank policies.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the accounting for an assessment of Applicant admission of prior art with adding Δ, the difference between an old and new ratio as taught by Scheel. This modification would be mathematically equivalent to accounting for the change in the ratio by adjusting the assessment applied to the stable value by the old ratio. One skilled in the art would have been motivated to make the modification for the benefit of minimizing the risk metric (see background paragraph 12).

6. Regarding claims 2, 9, and 14, Applicant admission of prior art teaches the assessment is at least one of the following: policy charges, cost of insurance charges, mortality risk, death benefit payment, mortality and expense (M&E) charges, asset based fees and investment fees (see paragraph 4).

7. Regarding claim 3, 8, and 15, Applicant admission of prior art teaches that traditional stable value products or funds track information at two levels: stable value and market value (see paragraph 6). Applicant admission of prior art further teaches tracking stable value at the individual insured level and tracking market value at the contract level (see tables 1-3). Applicant admission of prior art, however, does not explicitly teach tracking market value at the individual insured level. Applicant discloses in the specification that "in certain instances, the

market value of the traditional stable value fund cannot be explicitly assigned to the individual insured in consistent manner." As such, Applicant in the provided examples, assumes that every individual in a group of insured has the same market value and stable value. Examiner asserts that tracking the market value of the aggregate when all individuals are equal is equivalent to tracking the market value of the individual since it is merely dividing the aggregate by the number of equal parts.

8. Regarding claims 4, 10, 16, and 20, Applicant admission of prior art teaches a pooled mortality arrangement with a plurality of insured and accounting a death benefit claim (see tables 1-3). Applicant admission of prior art does not teach asymmetrically accounting the death benefit claim such that proceeds from said death benefit claim are recognized over an extended period of time. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the accounting for the death benefit of Applicant admission of prior art with adding Δ (see rejection of claim 1 above), the difference between an old and new ratio as taught by Scheel so that proceeds from said death benefit claim are recognized over an extended period of time. This modification would be mathematically equivalent to accounting for the change in the ratio by adjusting the assessment applied to the stable value by the old ratio (asymmetrically accounting). One skilled in the art would have been motivated to make the modification for the benefit of minimizing the risk metric (see background paragraph 12).

9. Regarding claims 5, 11, 17, and 21, Applicant admission of prior art teaches said proceeds represent a net amount of risk (NAR) of said death benefit claim (see paragraph 3).

10. Claims 6, 12, 18, and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant admission of prior art in view of Scheel further in view of Smith ("Three Views of Life Insurance". *The Journal of Risk and Insurance*, Vol. 48, No. 2. (Jun., 1981), pp. 334-350).

11. Regarding claims 6, 12, 18, and 22 Applicant admission of prior art does not expressly teach depositing said proceeds from said death benefit claim into said stable value investment product. Smith teaches allocating additions or subtractions to the fund resulting from premium payments, interest earnings or death benefits equally among the surviving members of a pooled mortality group (pages 335-337). It would have been obvious to one of ordinary skill in the art at the time of invention to deposit the proceeds from said death benefit claim of Applicant admission of prior art back into the investment product as taught by Smith such that said market value of remaining insureds increases by said proceeds. One skilled in the art would have been motivated to make the modification for the benefit of convenience. It would have been further been obvious to one of ordinary skill in the art at the time of invention to accommodate for Δ (see rejection of claim 1 above) so that said stable value of said remaining insureds increases over time, thereby effectively increasing reset rate prospectively. One skilled in the art would have been motivated to make the modification for the benefit of reducing volatility, making for a more attractive investment product.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC WONG whose telephone number is (571)270-3405. The examiner can normally be reached on Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

Eric Wong
Examiner
Art Unit 3693

Feb 2008